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IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

FILED  
HARRISBURG  
NOV 14 2000

JERRY MASON,

Petitioner

CIVIL NO. 1:00-CV-1490

DEPUTY CLERK

ROBERT W. MEYERS, ET AL.,

Respondents

(Chief Judge Rambo)  
(Magistrate Judge Smyser)

RESPONSE TO RULE SHOW CAUSE AND APPLICATION  
FOR ENLARGEMENT OF TIME

NOW COMES, the Respondent, by and through counsel, David W. Lupas, Luzerne County District Attorney, and Frank P. Barletta, Assistant District Attorney, and moves this Honorable Court for an order extending the time in which to file Respondent's brief in the above-captioned matter and in support thereof, avers as follows:

1. The Applicant, is the Respondent in the above-captioned appeal.
2. The Applicant is currently represented by David W. Lupas, Luzerne County District Attorney, and Frank P. Barletta, Assistant District Attorney, Luzerne County Courthouse, 200 North River Street, Wilkes-Barre, Pennsylvania, 18711.
3. The Petitioner, Jerry Mason, is currently acting pro se in the instant petition; however, he has been represented by Attorneys Robert L. Byer and David r. Fine, Kirkpatrick & Lockhart, 240 North Third Street, Harrisburg, Pennsylvania 17101. To the best of Respondent's knowledge, these attorneys still are counsel for Petitioner.
4. Petitioner filed a petition for writ of habeas corpus on August 10, 2000. By Order dated

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**THOMAS HIBBARD,**

Petitioner

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: CIVIL NO. 3:00 CV-1382  
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**FRANK D. GILLIS, ET AL.,**

Respondents


**CERTIFICATE OF SERVICE**

I, FRANK P. BARLETTA, Assistant District Attorney of Luzerne County, hereby certify that on the 13 day of November, 2000, I have served a true and correct copy of the foregoing document on the persons and in the manner indicated below:

**Service by First Class Mail, Postage pre-paid, addressed as follows:**

Jerry Mason, Pro Se  
Inmate # BK-6012  
SCI Rockview  
Box A  
Bellefonte, PA 16823

Robert L. Byer  
David R. Fine  
KIRKPATRICK & LOCKHART, LLP  
240 North Third Street  
Harrisburg, PA 17101

  
\_\_\_\_\_  
FRANK P. BARLETTA  
Assistant District Attorney

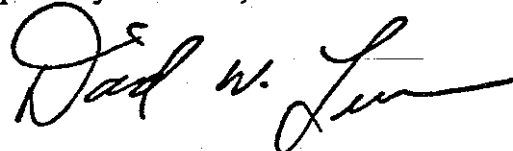
October 10, 2000, this Court ordered Respondent to respond to the petition on or before October 30, 2000.

5. In preparing to respond to the petition, undersigned counsel began investigating the status of certain physical evidence in this case, in order to determine whether the evidence exists and may be available for testing. This evidence has not yet been located; however, further investigation may yet be successful in locating it.

6. During this investigation, undersigned counsel inadvertently allowed the deadline for a response to pass without finding the evidence.

WHEREFORE, Counsel for Respondent respectfully requests this Court to allow more time for the evidence to be located, as the evidence will greatly facilitate disposition of this case. Accordingly, counsel also respectfully and apologetically requests that no sanctions be imposed for the lateness of the response.

Respectfully submitted,



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DAVID W. LUPAS  
DISTRICT ATTORNEY



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FRANK P. BARLETTA  
ASSISTANT DISTRICT ATTORNEY